

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

574J0760

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 163** - 02/04/2004

Introduced by: Senators Symens and Bogue and Representatives Peterson (Bill) and Olson
(Mel)

1 FOR AN ACT ENTITLED, An Act to revise certain county zoning laws to provide for certain
2 agricultural zoning.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 11-2-1 be amended to read as follows:

5 11-2-1. Terms used in this chapter mean:

6 (1) "Board," the board of county commissioners;

7 (2) "Commission," "planning and zoning commission," "zoning commission," or
8 "planning commission," any county planning and zoning commission created under
9 the terms of this chapter;

10 (3) "Comprehensive plan," a document which describes in words, and may illustrate by
11 maps, plats, charts, and other descriptive matter, the goals, policies, and objectives
12 of the board to interrelate all functional and natural systems and activities relating to
13 the development of the territory under its jurisdiction;

14 (4) "Governing body," the board of county commissioners, the city council or city
15 commission;



- 1 (5) "Municipality," a city or town however organized;
- 2 (6) "Temporary zoning or subdivision ordinance," an ordinance adopted as an emergency
3 measure for a limited duration;
- 4 (7) "Subdivision ordinance," any ordinance adopted by the board to regulate the
5 subdivision of land so as to provide coordination of streets with other subdivisions
6 and the major street plan, adequate areas set aside for public uses, water and
7 sanitation facilities, drainage and flood control, and conformity with the
8 comprehensive plan;
- 9 (8) "Subdivision," the division of any tract or parcel of land into two or more lots, sites,
10 or other division for the purpose, whether immediate or future, of sale or building
11 development. The term includes resubdivision. This definition does not apply to the
12 conveyance of a portion of any previously platted tract, parcel, lot, or site if the
13 conveyance does not cause the tract, parcel, lot, or site from which the portion is
14 severed to be in violation of any existing zoning ordinance or subdivision ordinance
15 applying to the tract, parcel, lot, or site;
- 16 (9) "Zoning map," the map that delineates the extent of each district or zone established
17 in the zoning ordinance;
- 18 (10) "Zoning ordinance," any ordinance adopted by the board to implement the
19 comprehensive plan by regulating the location and use of buildings and uses of land;
- 20 (11) "Agricultural zoning plan," a necessary and integral component of a comprehensive
21 plan, and a written plan which identifies any portions of the county where agriculture
22 is the preferred use and establishes specific procedures for resolving conflicts
23 between agricultural use and other uses;
- 24 (12) "Agricultural zoning ordinance," a necessary action for implementing any

comprehensive plan, and an ordinance which protects the rights and economic viability of existing agricultural operations and establishes a specific set of goals, policies and objectives which will be followed by any decisions of the county to grant or deny a permit for agricultural uses in the county.

Section 2. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as follows:

In adopting an agricultural zoning plan and related agricultural zoning ordinances, the county shall be guided by the following policies of the State of South Dakota:

- (1) Agricultural development is necessary for the preservation of our rural economy;
- (2) Development of new agricultural products and new uses of products is to be encouraged;
- (3) Existing agricultural uses are to be protected from urban sprawl;
- (4) In areas where agriculture is the preferred use, new construction of rural homes should not occur unless the construction is related to an agricultural use of the land where the home is to be built;
- (5) Environmental regulation is primarily a function of federal and state governments;
- (6) Existing agricultural development projects and those for which a plan is pending before the county prior to July 1, 2004, should be approved, if the use meets or exceeds all county requirements and federal and state environmental regulations; and
- (7) County zoning may not be used in any manner to discriminate against any person or business because of race, color, creed, national origin, sex, age, or place of residence.

Section 3. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as follows:

Any agricultural zoning plan shall include a permitting system for proposed agricultural

1 activities. The plan shall specify the types of activities for which a permit is required; all general
2 restrictions rationally related to the type of activity; the procedures of obtaining permits; and the
3 reasons and policy related to the denial, revocation, or suspension of any permit. A permit
4 applicant, who has met or exceeded all conditions in the plan and any applicable laws and
5 zoning ordinances, shall be granted a permit until revoked or suspended for good cause after
6 notice and a meaningful opportunity to hear the causes presented and offer refuting evidence.